



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DOCKET CLERK
PO BOX 12608
DALLAS TX 75225

COPY MAILED

MAR 18 2005

OFFICE OF PETITIONS

In re Application of :
Zhang and Patel :
Application No. 10/775,609 :
Filed: February 10, 2004 :
Attorney Docket No. 1578.101 (PUS1472) :
For: Apparatus, and Associated Method, :
for Facilitating Initiation of Channel . . . :

**DECISION REFUSING TO
ACCORD STATUS
UNDER 37 CFR 1.47(a)**

This is a decision on the petition under 37 CFR 1.47(a), filed November 15, 2004.

The petition is **DISMISSED**.

Discussion of the petition:

A grantable petition under 37 CFR 1.47(a) requires

- (1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$200 as specified in 37 CFR 1.17(g), and
- (4) the last known address of the omitted inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy (1). The petition states that the nonsigning inventor no longer resides at his last known address. However, the petition fails to discuss any steps taken to discover a new address and to locate the nonsigning inventor. Examples of steps, may included but are not limited to, internet searches and contacting directory assistance in an attempt to find a current phone number.

The instant petition fails to satisfy (2). The declaration fails to list citizenship for the nonsigning inventor. The necessity for citizenship on the declaration is a statutory requirement. Therefore, the requirement cannot be waived by the Office. The signing inventor may sign a declaration listing citizenship for the non-signing inventor, along with a statement that the citizenship information is correct the best of the signing inventor's knowledge. The declaration fails to list a residential or mailing address for the nonsigning inventor. The addresses can be the last known addresses for the inventor if the nonsigning inventor cannot be located after diligent effort.

Discussion of the power of attorney:

The power of attorney submitted with the petition appoints the practitioner's associated with customer number 44208. Ambiguity exists as to whether or not Donald Morrison may sign on behalf of the assignee, Research in Motion Limited. The power of attorney is signed by Donald H. Morrison who is identified as "Chief Operating Officer, Blackberry." The reason for the presence of the word "Blackberry" is unknown. Is Morrison the Chief Operating Officer of Research in Motion Limited? If yes, any request for reconsideration should explicitly state such a fact.

Discussion of the correspondence address for the application:

The instant petition is accompanied by a declaration, power of attorney, and change of correspondence address.

The declaration requests correspondence be sent to the address associated with customer number 30973. The address for customer number 30973 is: Scheef & Stone, LLP, 5956 Sherry Lane, Suite 1400, Dallas, TX 75225.

Attorney Robert Kelly is an attorney associated with customer number 30973.

Robert Kelly has filed a request to change the correspondence address to the address associated with customer number 44028. The number "44028" appears to contain a typographical error. The power of attorney lists customer number 44208 and customer number 44208 is associated with attorney Robert Kelly. The Office has made a mark through the number 44028 and replaced it with 44208. Normally, the power of attorney issues previously discussed would prohibit the Office from changing the address. However, considering all the facts and circumstances, including the fact that both addresses are for the same law firm, the address has been changed to the address associated with customer number 44208.

The fee:

Effective November 1, 2004, the fee for a petition under 37 CFR 1.47 is \$200. The fee of \$200 will be charged to petitioner's deposit account.

Reconsideration:

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

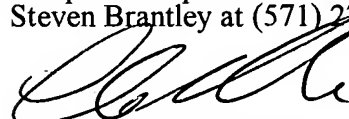
Further correspondence with respect to this matter should be addressed as follows:

By facsimile: (703) 872-9306
Attn: Office of Petitions

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries concerning the instant decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Petitions Attorney
Office of Petitions